

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference MCL-100-PCT	FOR FURTHER ACTION	See item 4 below
International application No. PCT/US2004/006733	International filing date (<i>day/month/year</i>) 05 March 2004 (05.03.2004)	Priority date (<i>day/month/year</i>) 15 July 2003 (15.07.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant MCCOY, Leonard		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I Basis of the report
<input type="checkbox"/>	Box No. II Priority
<input type="checkbox"/>	Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI Certain documents cited
<input type="checkbox"/>	Box No. VII Certain defects in the international application
<input type="checkbox"/>	Box No. VIII Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

	Date of issuance of this report 13 March 2006 (13.03.2006)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Yolaine Cussac
Facsimile No. +41 22 740 14 35	Telephone No. +41 22 338 70 80

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
BARBARA M. BURNS
1756 PLYMOUTH ROAD, #276
ANN ARBOR, MI 48105

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REC'D 02 FEB 2006
WIPO
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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

(PCT Rule 43bis.1)

		Date of mailing (day/month/year) 31 JAN 2006
Applicant's or agent's file reference MCL-100-PCT		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/US04/06733	International filing date (day/month/year) 05 March 2004 (05.03.2004)	Priority date (day/month/year) 15 July 2003 (15.07.2003)
International Patent Classification (IPC) or both national classification and IPC IPC(7): A61F 6/02, 6/04, 5/44, 5/00 and US Cl.: 128/844, 842, 918; 604/347, 348, 350, 351, 352, 353; 600/38		
Applicant MCCOY, LEONARD		

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<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Date of completion of this opinion 09 December 2005 (09.12.2005)	Authorized officer Henry Bennett Telephone No. 571-727-3700
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Form PCT/ISA/237 (cover sheet) (April 2005)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/06733

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:
 the international application in the language in which it was filed
 a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
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 table(s) related to the sequence listing
 - b. format of material
 on paper
 in electronic form
 - c. time of filing/furnishing
 contained in the international application as filed.
 filed together with the international application in electronic form.
 furnished subsequently to this Authority for the purposes of search.
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International application No.
PCT/US04/06733

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applicability, citations and explanations supporting such statement

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Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N) Claims 7-13 YES
Claims 1-6, 14-16 NO

Inventive step (IS) **Claims 7-8** **YES**
Claims 1-6, 9-16 **NO**

Industrial applicability (IA) Claims 1-16 YES
Claims NONE NO

2. Citations and explanations:

Please See Continuation Sheet

WRITTEN OPINION OF THE
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International application No.
PCT/US04/06733

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

V. 2. Citations and Explanations:

Claims 1-6, 14-16 lack novelty under PCT Article 33(2) as being anticipated by Star. Star discloses a male condom (Figs. 1-17), comprising a unitary body having a closed end and an open end (see right and left of Fig. 1), the unitary body having a first elongated generally tubular section adapted to fit a penis of a male (see right-half of Fig. 1), the first elongated generally tubular section having the closed end (see right-half of Fig. 1), a second section extending from the first elongated generally tubular section (see left-half of Fig. 1), and a resilient means adjacent the open end adapted to hold the condom securely to a male (130 of Fig. 1), the resilient means adapted to fit between the scrotum and the torso of a male (130 of Fig. 1), wherein the unitary body comprises one of latex rubber, animal skin and a synthetic membrane (see "latex" in line 30 of col. 2), wherein the resilient means adjacent the open end allow expansion of open end of second section over larger size of scrotum and then reduces and grips a smaller size between the scrotum and a torso of a male (130 of Fig. 1), wherein the resilient means can be configured in one of a round and square configuration (130 of Fig. 1), wherein the second section adapted to the and cups a male scrotum (see left-half of Fig. 1), further comprising a condom for use by a user for the prevention of pregnancy and the prevention of disease (Fig. 1), comprising a body having a closed end and an open end (see right and left of Fig. 1), the body having a first section adapted to first section adapted to fit one of a penis and a penile facsimile (see right-half of Fig. 1), the second having the closed end (see right-half of Fig. 1), a second section adapted to fit one of a scrotum of a user and a genital facsimile (see left-half of Fig. 1), the second section having the open end (see left-half of Fig. 1), and a resilient gripper means near the open end of the body adapted to hold the condom securely to a user (130 of Fig. 1) and adapted to fit one of between the scrotum and the pelvis of a user and onto a genital facsimile (130 of Fig. 1), and positioning the first elongated generally tubular section of the unitary body of the condom onto the penis of a user (Figs. 1-10), expanding the resilient means adjacent the open end of the condom and positioning the second section of the unitary body of the condom around the scrotum of the user (Figs. 1-10), allowing resilient means to contact the open end to fit between the scrotum and the torso of a user (Figs. 1-10).

Claims 9-13 lack an inventive step under PCT Article 33(3) as being obvious over Star.

Regarding claim 9, Star, as described above, discloses all the features claimed except being sized for a multiplicity of sizes. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the condom of Star being sized for a multiplicity of sizes, for different users having different sizes.

Regarding claim 10, Star, as described above, discloses all the features claimed except being packaged flat with the two sections being visible. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the condom of Star being packaged flat with the two sections being visible, because Star teaches that the "condom 100 can be packaged, rolled or unrolled, in a plastic or foil pouch for storage, sales and distribution" (see lines 52-53 of col. 4).

Regarding claim 11, Star, as described above, discloses all the features claimed except packaging wherein at least a multiplicity of individually packaged condoms are provided. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the condom of Star have packaging wherein at least a multiplicity of individually packaged condoms are provided, because Star teaches that "the condom 100 can be packaged rolled or unrolled, in a plastic or foil pouch for storage, sales and distribution" (see lines 52-53 of col. 4).

Regarding claim 12, Star, as described above, discloses all the features claimed except that the at least a multiplicity of individual packaged condoms being displayed with each packaged condom being placed and back of a lower condom. It would have been obvious